

United States District Court District of New Mexico

UNITED STATES OF AMERICA,

AMENDED ORDER OF DETENTION PENDING PROBATION REVOCATION HEARING

v.

Case Number: 13-CR-02225 MV

ZEBULUN SMITH

In accordance with the Fed. R. Crim. P. 32.1(a)(6) and 18 U.S.C. § 3143(a)(1), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending a final revocation hearing in this case.

Findings of Fact

- (1) The defendant is held in custody for violating probation or supervised release. *See* Fed. R. Crim. P. 32.1(a)(1).
- (2) The Court held a preliminary hearing and found probable cause for some or all of allegations of violation of probation or supervised release. *See* Fed. R. Crim. P. 32.1(b)(1)(A).
- (3) At the detention hearing, the defendant did not establish, nor did the court find, by clear and convincing evidence that the defendant will not flee or pose a danger to any other person or to the community if released under 18 U.S.C. § 3142(b) (personal recognizance or unsecured appearance bond) or (c) (release on conditions) pending further proceedings. *See* Fed. R. Crim. P. 32.1(a)(6); 18 U.S.C. § 3143(a)(1).
- (4) Additional findings or explanations: As stated on the record at the conclusion of the hearing, the evidence established probable cause that defendant came to the scene of an accident in which his twin sons were involved and brandished a gun and fired it to instill fear into the other people involved in the accident. The defendant previously violated his conditions of supervised release by beating his father-in-law, and he has at least one conviction for a violent crime and several convictions for drug-related offenses. Further, defendants' sons are in the care of their stepmother, whom one son testified took good care of them. The defendant did not establish by clear and convincing evidence that he was not a danger to the community.

ORDER OF DETENTION

Therefore, pursuant to Fed. R. Crim. P. 32.1(a)(6), the defendant shall be and is ordered detained pending a revocation hearing.

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility pending a revocation hearing. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Date: 3/16/2020



Laura Flashing, U.S. Magistrate Judge